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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,269	06/25/2003	Efraim Garti	WOLFF P-26	4485
30294	7590	08/24/2006	EXAMINER	
LACKENBACH SIEGEL ONE CHASE ROAD SCARSDALE, NY 10583			KIM, SUN U	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/603,269

Applicant(s)

GARTI, EFRAIM

Examiner

John Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-23 is/are pending in the application.
- 4a) Of the above claim(s) 14-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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This Office Action is in response to the Amendment filed on June 12, 2006.

1. Newly submitted claims 14-23 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: A swimming pool cleaning apparatus of claims 14 and 23 includes a housing being opened at its lower end and having an openable lid at its upper end, an impeller and a clean water outlet and a base having at least one raw liquid opening and recessed circumference and a framework projecting from said base and being attached to said base within the area delimited by said recessed circumference. Swimming cleaning apparatus of claims 14-23 are classified in class 15, subclass 1.7 and distinct from the apparatus originally claimed in claims 7-13 classified in class 210, subclass 169.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-23 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietrich, U.S. Patent No. 5,768,734 in view of Cox et al., U.S. Patent No. 6,419,839 B1.

Regarding Claim 7, Dietrich discloses in a swimming pool cleaning apparatus including a framework (#12) having a peripheral recess (#28) for supporting a filter, the improvement comprising: a disposable filter; a filtering bag (#80) with an opening defined by a rim, the bag

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having filtering perforations, and a stretchable band (#82) extending along the rim of the opening facilitating the easy attachment and detachment of the bag on the framework. However, Dietrich does not disclose that the bag is made of a non-woven synthetic material. Cox teaches a non-woven, synthetic, swimming pool filter media and can be made in a form of vacuum filter bags (see Col. 2, Lines 1-31, 57-64). It would have been obvious to one of ordinary skill in the art to modify the filter bag of Dietrich with the bag made of non-woven, synthetic material in order to be able to remove dirt, debris, oils, and microorganisms as suggested by Cox et al (see Col. 3, Lines 21-26).

Regarding Claim 11, Cox et al disclose that the filter is made of polypropylene (Col. 9, Lines 1-27) having a weight of about 30 to about 400 g/m<sup>2</sup> (see Col. 4, Lines 53-56) which includes claimed weight about 51.2 g/m<sup>2</sup>.

Regarding Claim 12, the shape of the band has no mechanical function and cannot be relied upon to patentably distinguish the claimed invention from the prior art. In re Seid, 73 USPQ 431 (1947). The elastic band of Dietrich is deemed to be a structure equivalent to the stretchable band of the invention.

Regarding Claim 13, Dietrich discloses that the filter in its assembled state is slipped over the framework with a stretchable opening tightly surrounding and clinging to a recessed strip (see Fig. 2; col. 4, lines 56-63).

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietrich in view of Cox et al as applied to Claim 7 above, and further in view of Tafara, U.S. Patent No. 4,545,833.

Regarding Claim 8, Dietrich in view of Cox et al does not disclose the size of the filter perforations. Tafara teaches a filter bag with micron ratings from 0.2 to 1600 (see Col. 5, Lines

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3-9). One of skill in the art would by routine experimentation find the optimum filter perforation size of between 70 to 80 microns for removing dirt, debris, oil and microorganisms. It is not inventive to discover the optimum or workable ranges by routine experimentation when the general conditions of a claim are disclosed in the prior art. In re Aller, 105 USPQ 233, 235 (CCPA 1955).

5. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietrich in view of Cox et al as applied to Claim 7 above, and further in view of Emig et al, U.S. Patent No. 6,706,086.

Regarding Claim 9, Dietrich in view of Cox et al does not disclose the air permeability. Emig et al teach a vacuum filter bag having air permeability of 1,500 to 20,000 L/m<sup>2</sup>xs (Col. 6, Lines 35-41). One of skill in the art would by routine experimentation find the optimum air permeability to remove dirt, debris, oil and microorganisms. It would have been obvious to one of skill in the art to make the air permeability of Dietrich in view of Cox et al as so desired or required, including as claimed to optimize filtration to remove dirt, debris, oil and microorganisms.

Regarding Claim 10, Dietrich in view of Cox et al does not disclose stretching or bursting strength. Emig et al teach a vacuum filter bag comprising a material having a longitudinal stretching strength of 2 to 12 N per 15 mm strip and a transversal stretching strength of 1 to 10 N per 15 mm strip (Col. 6, Lines 25-34), and a bursting strength of at least 70 kPa (Col. 2, Lines 10-15). One of skill in the art would by routine experimentation find the optimum stretching and bursting strengths for its use in swimming pool filter application. It would have been obvious to one of skill in the art to make the stretching and bursting strengths of Dietrich in view of Cox et

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al as so desired or required, including as claimed to optimize filtration for swimming pool filter application.

6. Applicant's arguments filed 6/12/06 have been fully considered but they are not persuasive. Applicant argues that the device of Dietrich or Cox et al does not teach or suggest both a cleaning and a recirculating device for the water. However, claim 7, only independent claim being considered in this office action, does not claim structures allowing both a cleaning and a recirculating device for the water. Applicant argues that there is no motivation in Dietrich to replace the catch bag filter with the stiff cartridge filter of Cox et al. However, Cox et al is applied to show that vacuum filter bag of non-woven synthetic material is used to remove dirt, debris, oil and microorganisms in the swimming pool.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

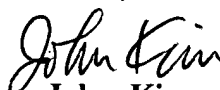
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References in PTO-892 teaches various swimming pool filters known in the art.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is 571-272-1142. The examiner can normally be reached on Monday-Friday 7 a.m. - 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**John Kim**  
**Primary Examiner**  
**Art Unit 1723**

JK

August 22, 2006